

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SAM WILKES,)	
Plaintiff,)	
vs.)	No. 01-2064-DV
FEDERAL EXPRESS CORP.,)	
Defendant.)	

ORDER GRANTING DEFENDANT'S
MOTION TO COMPEL AND FOR SANCTIONS

Before the court is the October 24, 2001 motion of the defendant Federal Express Corp., pursuant to Rule 37(a) of the Federal Rules of Civil Procedure, to compel the plaintiff to respond more fully to FedEx's first set of interrogatories and requests for production of documents served July 9, 2001, to sign his first set of discovery responses, to verify his interrogatory answers under oath, and to execute releases for medical, employment, and IRS records. FedEx also seeks expenses and fees pursuant to Rule 37(a)(4)(A) for bringing the motion to compel.

Pursuant to Local Rule 7.2(a)(2), responses to motions in civil cases are to be filed within fifteen days after service of the motion. The plaintiff has not filed a response to this motion, and the time for responding has now expired. Rule 7.2(a)(2) further provides that "[f]ailure to respond timely to any motion . . . may be deemed good grounds for granting the motion."

In the absence of any response by the plaintiff, FedEx's motion to compel is granted. The plaintiff is directed to file full and complete responses to Interrogatories Nos. 2, 3, 5, 7, 9, 10, and 11 and to Requests for Production Nos. 1-22, 24-51, and 53-64 within eleven days of the date of this order. In addition, the plaintiff shall supplement his earlier responses by providing responses bearing his signature; he shall verify his interrogatory answers under oath; and he shall execute releases for medical,

employment, and IRS records, all within eleven days of the date of this order.

FedEx also requests reasonable expenses including attorneys fees under Rule 37. Rule 37 provides that if a motion to compel is granted:

"the court shall . . . require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorneys fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's non-disclosure, response or objection was substantially justified, or that other circumstances make an award of expenses unjust."

Fed. R. Civ. P. 37(a)(4)(A). In this case, the imposition of expenses against the plaintiff, including attorney fees, is warranted to compensate FedEx for its expenses incurred in seeking complete responses to discovery and in bringing this motion.

Accordingly, FedEx's motion for reasonable expenses, including attorney fees, is granted. FedEx's counsel is directed to submit an affidavit within eleven days of the date of this order verifying the amount of expenses, including attorney fees, incurred by FedEx in seeking complete responses to the discovery and bringing the motion to compel.

The plaintiff is warned that, henceforth, failure to comply with this order and other proper discovery requests will lead to dismissal of his complaint.

IT IS SO ORDERED this 14th day of November, 2001.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE